

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BROADCAST MUSIC, INC.; WARNER-)
TAMERLANE PUBLISHING CORP.; RONDOR)
MUSIC INTERNATIONAL, INC. d/b/a IRVING)
MUSIC; LESS THAN ZERO MUSIC;)
SOUTHFIELD ROAD MUSIC; FAKE AND)
JADED MUSIC; COMBINE MUSIC CORP.;)
PEER INTERNATIONAL CORPORATION;)
SONY/ATV SONGS LLC; HOUSE OF GAGA)
PUBLISHING LLC; REDONE PRODUCTION)
LLC d/b/a SONGS OF REDONE; EMI)
BLACKWOOD MUSIC INC.; COLLIPARK)
MUSIC; SOAR LOSER MUSIC; DA CRIPPLER)
PUBLISHING; E W C PUBLISHING CO.,)
Plaintiffs,)
v.) CIVIL ACTION NO.)
TOY SOLDIER ENTERPRISES, INC. d/b/a TOY)
SOLDIER RESTAURANT & PUB and THEMIS)
GEORGALLIS and HENRY SCHMALZER,)
each individually,)
Defendants.)

COMPLAINT

Plaintiffs, by their attorneys, for their Complaint against Defendants, allege as follows (on knowledge as to Plaintiffs; otherwise on information and belief):

JURISDICTION AND VENUE

1. This is a suit for copyright infringement under the United States Copyright Act of 1976, as amended, 17 U.S.C. Sections 101 et seq. (the "Copyright Act"). This Court has jurisdiction pursuant to 28 U.S.C. Section 1338(a).
2. Venue is proper in this judicial district pursuant to 28 U.S.C. Section 1400(a).

THE PARTIES

3. Plaintiff Broadcast Music, Inc. ("BMI") is a corporation organized and existing under the laws of the State of New York. BMI's principal place of business is 7 World Trade Center, 250 Greenwich Street, New York, New York 10007. BMI has been granted the right to license the public performance rights in approximately 8.5 million copyrighted musical compositions (the "BMI Repertoire"), including those which are alleged herein to have been infringed.

4. The Plaintiffs other than BMI are the owners of the copyrights in the musical compositions, which are the subject of this lawsuit. All Plaintiffs are joined pursuant to Fed. R. Civ. P. 17(a) and 19(a).

5. Plaintiff Warner-Tamerlane Publishing Corp. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

6. Plaintiff Rondor Music International, Inc. is a corporation doing business as Irving Music. This Plaintiff is the copyright owner of at least one of the songs in this matter.

7. Plaintiff Less Than Zero Music is a sole proprietorship owned by Jonathan Siebels. This Plaintiff is the copyright owner of at least one of the songs in this matter.

8. Plaintiff Southfield Road Music is a sole proprietorship owned by Tony Fagenson. This Plaintiff is the copyright owner of at least one of the songs in this matter.

9. Plaintiff Fake and Jaded Music is a sole proprietorship owned by James Maxwell Stuart Collins. This Plaintiff is the copyright owner of at least one of the songs in this matter.

10. Plaintiff Combine Music Corp. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

11. Plaintiff Peer International Corporation is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

12. Plaintiff Sony/ATV Songs LLC is a limited liability company. This Plaintiff is the copyright owner of at least one of the songs in this matter.

13. Plaintiff House of Gaga Publishing LLC is a limited liability company. This Plaintiff is the copyright owner of at least one of the songs in this matter.

14. Plaintiff Redone Production LLC is a corporation doing business as Songs of RedOne. This Plaintiff is the copyright owner of at least one of the songs in this matter.

15. Plaintiff EMI Blackwood Music Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

16. Plaintiff Collipark Music is a sole proprietorship owned by Michael Antoine Crooms. This Plaintiff is the copyright owner of at least one of the songs in this matter.

17. Plaintiff Soar Loser Music is a sole proprietorship owned by Warren Anderson Mathis. This Plaintiff is the copyright owner of at least one of the songs in this matter.

18. Plaintiff Da Crippler Publishing is a sole proprietorship owned by Eric Von Jackson, Jr. This Plaintiff is the copyright owner of at least one of the songs in this matter.

19. Plaintiff E W C Publishing Co. is a sole proprietorship owned by Deongelo Marquel Holmes. This Plaintiff is the copyright owner of at least one of the songs in this matter.

20. Defendant Toy Soldier Enterprises, Inc. is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, which operates, maintains and controls an establishment known as Toy Soldier Restaurant & Pub, located at 104 N. Broad Street, Lititz, PA 17543-1007, in this district (the "Establishment").

21. In connection with the operation of the Establishment, Defendant Toy Soldier Enterprises, Inc. publicly performs musical compositions and/or causes musical compositions to be publicly performed.

22. Defendant Toy Soldier Enterprises, Inc. has a direct financial interest in the Establishment.

23. Defendant Themis Georgallis is the President of Defendant Toy Soldier Enterprises, Inc. with responsibility for the operation and management of that corporation and the Establishment.

24. Defendant Themis Georgallis has the right and ability to supervise the activities of Defendant Toy Soldier Enterprises, Inc. and a direct financial interest in that corporation and the Establishment.

25. Defendant Henry Schmalzer is Vice President of Defendant Toy Soldier Enterprises, Inc. with responsibility for the operation and management of that corporation and the Establishment.

26. Defendant Henry Schmalzer has the right and ability to supervise the activities of Defendant Toy Soldier Enterprises, Inc. and a direct financial interest in that corporation and the Establishment.

CLAIMS OF COPYRIGHT INFRINGEMENT

27. Plaintiffs repeat and reallege each of the allegations contained in Paragraphs 1 through 26.

28. Plaintiffs allege eight (8) claims of copyright infringement, based upon Defendants' unauthorized public performance of musical compositions from the BMI Repertoire. All of the claims for copyright infringement joined in this Complaint are governed by the same legal rules and

involve similar facts. Joinder of these claims will promote the convenient administration of justice and will avoid a multiplicity of separate, similar actions against Defendants.

29. Annexed to this Complaint as a schedule (the "Schedule") and incorporated herein is a list identifying some of the many musical compositions whose copyrights were infringed by Defendants. The Schedule contains information on the eight (8) claims of copyright infringement at issue in this action. Each numbered claim has the following eight lines of information (all references to "Lines" are lines on the Schedule): Line 1 providing the claim number; Line 2 listing the title of the musical composition related to that claim; Line 3 identifying the writer(s) of the musical composition; Line 4 identifying the publisher(s) of the musical composition and the plaintiff(s) in this action pursuing the claim at issue; Line 5 providing the date on which the copyright registration was issued for the musical composition; Line 6 indicating the copyright registration number(s) for the musical composition; Line 7 showing the date(s) of infringement; and Line 8 identifying the establishment where the infringement occurred.

30. For each work identified on the Schedule, the person(s) named on Line 3 was the creator of that musical composition.

31. For each work identified on the Schedule, on or about the date(s) indicated on Line 5, the publisher(s) named on Line 4 (including any predecessors in interest), complied in all respects with the requirements of the Copyright Act and received from the Register of Copyrights Certificates of Registration bearing the number(s) listed on Line 6.

32. For each work identified on the Schedule, on the date(s) listed on Line 7, Plaintiff BMI was (and still is) the licensor of the public performance rights in the musical composition identified on Line 2. For each work identified on the Schedule, on the date(s) listed on Line 7, the

Plaintiff(s) listed on Line 4 was (and still is) the owner of the copyright in the respective musical composition listed on Line 2.

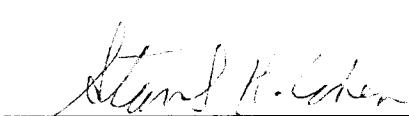
33. For each work identified on the Schedule, on the date(s) listed on Line 7, Defendants publicly performed and/or caused to be publicly performed at the Establishment the musical composition identified on Line 2 without a license or permission to do so. Thus, Defendants have committed copyright infringement.

34. The specific acts of copyright infringement alleged in the Complaint, as well as Defendants' entire course of conduct, have caused and are causing Plaintiffs great and incalculable damage. By continuing to provide unauthorized public performances of works in the BMI Repertoire at the Establishment, Defendants threaten to continue committing copyright infringement. Unless this Court restrains Defendants from committing further acts of copyright infringement, Plaintiffs will suffer irreparable injury for which they have no adequate remedy at law.

WHEREFORE, Plaintiffs pray that:

- (I) Defendants, their agents, servants, employees, and all persons acting under their permission and authority, be enjoined and restrained from infringing, in any manner, the copyrighted musical compositions licensed by BMI, pursuant to 17 U.S.C. Section 502;
- (II) Defendants be ordered to pay statutory damages, pursuant to 17 U.S.C. Section 504(c);
- (III) Defendants be ordered to pay costs, including a reasonable attorney's fee, pursuant to 17 U.S.C. Section 505; and
- (IV) Plaintiffs have such other and further relief as is just and equitable.

September 18, 2015


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Schedule

Line 1	Claim No.	1
Line 2	Musical Composition	China Grove
Line 3	Writer(s)	Tom Johnston
Line 4	Publisher Plaintiff(s)	Warner-Tamerlane Publishing Corp.
Line 5	Date(s) of Registration	5/7/73 9/10/73
Line 6	Registration No(s).	Eu 404469 Ep 316432
Line 7	Date(s) of Infringement	7/10/2015
Line 8	Place of Infringement	Toy Soldier Restaurant & Pub

Line 1	Claim No.	2
Line 2	Musical Composition	Hard To Handle
Line 3	Writer(s)	Alvertis Isbell; Allen Jones; Otis Redding
Line 4	Publisher Plaintiff(s)	Rondor Music International, Inc. d/b/a Irving Music
Line 5	Date(s) of Registration	6/13/68 12/13/68
Line 6	Registration No(s).	Eu 58360 Ep 254414
Line 7	Date(s) of Infringement	7/11/2015
Line 8	Place of Infringement	Toy Soldier Restaurant & Pub

Line 1	Claim No.	3
Line 2	Musical Composition	Inside Out
Line 3	Writer(s)	James Maxwell Stuart Collins; Jonathan Lee Siebels; Anthony Edward Fagenson
Line 4	Publisher Plaintiff(s)	Jonathan Siebels, an individual d/b/a Less Than Zero Music; Tony Fagenson, an individual d/b/a Southfield Road Music; James Maxwell Stuart Collins, an individual d/b/a Fake And Jaded Music
Line 5	Date(s) of Registration	6/18/98
Line 6	Registration No(s).	PA 896-254
Line 7	Date(s) of Infringement	2/13/2015
Line 8	Place of Infringement	Toy Soldier Restaurant & Pub

Line 1	Claim No.	4
Line 2	Musical Composition	Me And Bobby McGee
Line 3	Writer(s)	Kris Kristofferson; Fred Foster
Line 4	Publisher Plaintiff(s)	Combine Music Corp.
Line 5	Date(s) of Registration	7/18/69
Line 6	Registration No(s).	Ep 260746
Line 7	Date(s) of Infringement	7/11/2015
Line 8	Place of Infringement	Toy Soldier Restaurant & Pub

Line 1	Claim No.	5
Line 2	Musical Composition	Walk Like An Egyptian
Line 3	Writer(s)	Liam Sternberg
Line 4	Publisher Plaintiff(s)	Peer International Corporation
Line 5	Date(s) of Registration	2/11/86
Line 6	Registration No(s).	PA 278-841
Line 7	Date(s) of Infringement	7/10/2015
Line 8	Place of Infringement	Toy Soldier Restaurant & Pub

Line 1	Claim No.	6
Line 2	Musical Composition	White Rabbit
Line 3	Writer(s)	Grace Slick
Line 4	Publisher Plaintiff(s)	Rondor Music International, Inc. d/b/a Irving Music
Line 5	Date(s) of Registration	3/9/67
Line 6	Registration No(s).	EP 228383
Line 7	Date(s) of Infringement	7/10/2015
Line 8	Place of Infringement	Toy Soldier Restaurant & Pub

Line 1	Claim No.	7
Line 2	Musical Composition	Bad Romance
Line 3	Writer(s)	Stefani Germanotta a/k/a Lady Gaga; Nadir Khayat a/k/a RedOne
Line 4	Publisher Plaintiff(s)	Sony/ATV Songs LLC; House Of Gaga Publishing LLC.; RedOne Production LLC d/b/a Songs Of RedOne
Line 5	Date(s) of Registration	7/21/11
Line 6	Registration No(s).	PA 1-751-974
Line 7	Date(s) of Infringement	7/11/2015
Line 8	Place of Infringement	Toy Soldier Restaurant & Pub

Line 1	Claim No.	8
Line 2	Musical Composition	Ms. New Booty
Line 3	Writer(s)	Michael Antoine Crooms; Deongelo Holmes; Eric Jackson; Warren Anderson Mathis
Line 4	Publisher Plaintiff(s)	EMI Blackwood Music Inc.; Michael Antoine Crooms d/b/a Collipark Music; Warren Anderson Mathis d/b/a Soar Loser Music; Eric Von Jackson, Jr. d/b/a Da Crippler Publishing; Deongelo Marquel Holmes d/b/a E W C Publishing Co.
Line 5	Date(s) of Registration	3/2/06
Line 6	Registration No(s).	PA 1-163-734
Line 7	Date(s) of Infringement	2/14/2015
Line 8	Place of Infringement	Toy Soldier Restaurant & Pub
